IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO :18524 of 2007

Dated: 30th August 2007.

Between:

Nadimpalli Satyanarayana Raju .. Petitioner

And

The District Collector,
Eluru, West Godavari District .. Respondents

ORAL ORDER:

The writ petitioner has claimed that he served the Defence Services of this country and was discharged therefrom. In terms of the policy pursued by the State Government to assign land in favour of the Ex-serviceman, the writ petitioner has been assigned land of an extent of five acres situate in Sy.No.78/2, Srinivasapuram village, Jangareddygudem Mandal, West Godavari District, by way of a temporary D-patta dated 23.4.2001 by the Mandal Revenue Officer, Jangareddy Mandal Mandal. But, however, when the same Mandal Revenue Officer suspected the writ petitioner to have

encroached upon government land, he issued a notice under Section 7(1) of the A.P. Land Encroachment Act. Calling in question this action of the Mandal Revenue Officer, the writ petitioner had approached the Government of Andhra Pradesh protesting the action of the Mandal Revenue Officer. The government passed orders through their Memo dated 5.6.2002 and it will be advantageous to quote the following therefrom:

> "…. As could be seen from the petition filed by the appellant and the copy of the patta and also pahani (Adangal) etc., of the revenue records, prima-facie, the land was assigned to him and as such he is neither encroacher nor illegal occupier and the action of the Mandal Revenue Officer in issuing notice under the Act, referred to above therefore is not in order. If, however, assignment is found irregular or has been made based on the misrepresentation of the fact etc., action should be initiated under appropriate Act or the Rules…."

Thus the threatened eviction of the writ petitioner had been set at rest by the State Government. Notwithstanding the same, a complaint appears to have been lodged against the eligibility and entitlement of the writ petitioner to the assigned land with the District Collector, West Godavari District, Eluru and seeking to inquire in that matter, the Tahsildar, Jangareddigudem through his notice dated 17.8.2007 directed the writ petitioner to produce three specific documents referred to therein to enable him to conclude the issue. However,

the Tahsildar had chosen to grant only two days time for producing the documents called for in his notice dated 17.8.2007. Since the time granted was considered to be too short and too unreasonable, the writ petitioner submitted a representation on 18.8.2007 seeking 15 days time to supply the copies of the documents called for in the notice dated 17.8.2007. No formal orders granting the time solicited by the writ petitioner have been passed. But, however, the Tahsildar, the 2nd respondent herein appears to have threatened the writ petitioner with eviction from out of the land in question. In these set of circumstances, the present writ petition has been instituted seeking the following relief :

> "For the reasons stated in the accompanying affidavit, the petitioner prays that the Honourable Court may be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in threatening to evict the petitioner from his land Ac.5.00 cents in S.No.78/2 of Srinivasapuram village, Jangareddygudem Mandal, West Godavari District, without passing any lawful order to that effect is highly unjust, arbitrary, violative of principles of natural justice, contrary to law, illegal and violative of Articles 14 and 21 of the constitution of India and pass appropriate orders and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

It is not in dispute that the then Mandal

Revenue Officer, had assigned land of an extent of Ac.5.00 situate in Sy.No.78/2 of Srinivasapuram village, Jangareddygudem Mandal, West Godavari District in favour of the petitioner. Without cancelling such an assignment strictly in accordance with the law, the writ petitioner is not liable to be evicted from out of the said land at all. Any such action contrary thereto, is liable to be treated as the unlawful action which the 1st respondent will ensure not to take place at all. It is open to the 2nd respondent to conduct a detailed enquiry and submit an appropriate report into the complaint said to have been received by the 1st respondent about the eligibility of the writ petitioner to be assigned land. Based upon the said report, the 1st respondent will take appropriate decision in the matter, after affording a personal hearing to the writ petitioner, duly supplying him a copy of the report of the Mandal Revenue Officer. With this the writ petition stands disposed of. No costs.

Nooty Ramamohana Rao, J

30th August 2007
knk – Note : CC by tomorrow
(b/o) knk